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Inventors: Stuelpnagel et al.  
Serial No. 09/606,369  
Filing date: June 28, 2000

### REMARKS

Claims 13-18 and 29-51 are currently pending and under examination. By the present communication new claim 52 is added and claims 13-18 are canceled without prejudice to pursuing the subject matter of these claims in one or more applications claiming priority to the above-captioned application. Following entry of the amendments claims 29-52 will be under examination.

The specification has been amended to correctly identify the priority applications for the present application. Support for the amendment can be found at item 10 of the transmittal filed with the application on June 28, 2000. Accordingly, the amendment does not raise any issues of new matter.

Claims 29, 37, 38, 39 and 40 have been amended, support for which can be found in the specification, for example, at page 17, lines 1-10. Support for new claim 52 can be found in the specification, for example, at page 19, lines 13-16. Accordingly, the amendments do not raise any issues of new matter. Furthermore, Applicants respectfully submit that entry of the amendments after final is proper because the amendments cancel claims, place the claims into condition for allowance or in better form for consideration on appeal, and do not raise new issues for consideration in accordance with 37 C.F.R. 1.116 and MPEP 714.12 and 714.13. Therefore, entry of the amendments is respectfully requested.

Applicants would like to thank Examiner Beisner for helpful comments provided in the telephonic interview with Applicants' representative on November 17, 2004. During the interview, the rejection under 35 U.S.C. § 103(a) was discussed. The amendments and remarks below are believed by Applicants to substantially conform to the subject matter discussed in the interview.

Applicants further invite the Examiner to contact Applicants' representative by telephone should he believe it would be helpful for addressing any questions regarding the amendments and remarks provided herein.

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**Rejections Under 35 U.S.C. § 103**

Claims 13-18 and 29-35 are rejected under 35 USC § 103(a) as allegedly obvious over Whitehead, et al. (U.S. 4,879,097) in view of Kohlemanen, et al. (U.S. 4,349,510).

The Office Action alleges that Whitehead et al. describes a device including all of the elements of the claimed hybridization chamber with the exception of a sealant between the base plate and the lid forming an airtight seal. The Office Action points out that instead Whitehead et al. describes a labyrinth joint to prevent entry of stray light. Kohlemanian is relied upon for allegedly describing the use of an o-ring to make a light-tight closure. The Office Action alleges that one skilled in the art would have been motivated to replace the labyrinth joint with an o-ring because both have equivalent light excluding properties. The Office Action further alleges that an o-ring used in the device of Whitehead et al. would inherently provide an airtight seal.

Applicants respectfully traverse the rejection for the reasons already of record and for the reasons set forth below. Nevertheless, in order to further prosecution Applicants have canceled claims 13-18. Thus, the rejection is moot in regard to claims 13-18. Furthermore, Applicants have amended claims 29-35 to require a clamp providing increased pressure between the lid and the baseplate. The cited references taken alone or in combination do not teach or suggest the claimed hybridization chamber including the recited clamp. Rather, as pointed out in the Office Action, the cited references teach satisfactory prevention of light entry using a labyrinth joint or o-ring and do not describe use of a clamp. Moreover, the satisfactory results described in the references for preventing light entry do not suggest any advantage or need for further modifying the device of Whitehead et al. to include a clamp. Absent a desire to form an airtight seal, as claimed, those skilled in the art would not have been motivated to alter the device of Whitehead et al. to include the o-ring of Kohlemanian and to further include a clamp. Thus, the claimed invention is unobvious over the cited art. Accordingly, Applicants respectfully request withdrawal of the rejection under § 103 over Whitehead, et al. in view of Kohlemanen, et al.

Claims 36-51 are rejected under 35 USC § 103(a) as allegedly obvious over Whitehead, et al. (U.S. 4,879,097) in view of Kohlemanen, et al. (U.S. 4,349,510) taken further in view of Walt et al. (U.S. 6,327,410).

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Applicants respectfully traverse the rejection for the reasons already of record and for the reasons set forth below. Applicants maintain that the combination of Whitehead et al. and Kohlemanian et al. does not teach or suggest the claimed hybridization chamber including the recited clamp. Walt et al. does not cure the deficiencies of these two references because Walt et al., taken alone or in combination with them, does not teach or suggest making or using a clamp providing increased pressure between the lid and the baseplate of the Whitehead et al. device, whether or not the Whitehead et al. device includes the o-ring of Kohlemanian et al. Thus, the claimed invention is unobvious over the cited art. Accordingly, Applicants respectfully request withdrawal of the rejection under § 103 over Whitehead, et al. in view of Kolehmainen, et al. and further in view of Walt et al.

#### CONCLUSION

In light of the Amendments and Remarks herein, Applicants submit that the claims are in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent should there be any questions.

Respectfully submitted,



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Date: November 23, 2004

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